

### **AMENDMENTS TO THE DRAWINGS**

The attached "Replacement Sheets" of drawings include changes to Figure 3. The attached "Replacement Sheets," which includes Figures 1-15, replace the original sheets including Figures 1-15.

Also, because of the paper size change and placement of figures for the drawings, Applicants are submitting a complete set of replacement drawings.

Attachment: Replacement Sheets

## **REMARKS**

Claims 59-76 remain pending in the present application. Claims 66, 73 and 75 have been amended. Basis for the amendments can be found throughout the specification, drawings and claims as originally filed.

## **IN THE DRAWINGS**

Applicants have attached revised drawings for the Examiner's approval. Applicants have attached replacement sheets of drawings in which reference numerals 62 (Fig. 2), 36 (Fig. 3), 78 (Fig. 3), 83 (Fig. 4a) and 200 (Fig. 12) have been added and numeral "66" has been changed to -36- (Fig. 3). Also, because of the paper size change and placement of figures for the drawings, Applicants are submitting a complete set of drawings.

## **REJECTION UNDER 35 U.S.C. §102(b)**

The Examiner has rejected Claims 66-68 and 70 under 35 U.S.C. §102(b) alleging them to be anticipated by Mita (U.S. Patent No. 5,456,994). The Examiner alleges that Mita discloses Applicants' invention.

Claim 66 has been amended. Claim 66 further defines providing a hand-held cordless tool with a removable pack to enable fluid to enter the removable pack by one or more cells, cooling the one or more cells and enabling the fluid to exit the removable battery pack.

The Mita reference cited by the Examiner fails to disclose or suggest providing a hand-held cordless tool with removable battery pack. The Mita reference relied on by the Examiner illustrates a battery module for a vehicle. The Mita reference neither discloses nor suggests providing cooling of a hand held cordless tool. Accordingly,

Applicants believes Claim 66 as well as dependent Claims 67-72 to patentably distinct over the art cited by the Examiner.

### **REJECTION UNDER 35 U.S.C. §103(a)**

The Examiner has rejected Claims 73-76 under 35 U.S.C. §103(a) as being unpatentable over Schulz et al. (U.S. Patent No. 5,480,734) in view of Bae et al. (U.S. Patent No. 5,567,542). The Examiner alleges that this combination would render Applicants' obvious to those skilled in the art.

Claims 73 and 75 have been amended. Claim 73 and 75 further define a method of cooling a cordless power tool during operation of the cordless power tool.

The Schulz et al. reference relied on by the Examiner discusses cooling during charging. Nowhere does the Schulz et al. reference discuss cooling during operation of the power tool. In fact, Schulz et al., in column 1, lines 38-49, indicates that as the temperature rises, the accumulator is shut off. Then, the accumulator is positioned into the charging device to recharge the battery. Accordingly, Schulz et al. fails to disclose or suggest any type of cooling during use.

The Bae reference relied on by the Examiner relates to a battery system for an electric vehicle. The patent discloses and claims a holder which is frame-like mechanism for holding the battery cells in the vehicle. The Bae reference discloses a heat sink. However, there is no suggestion, motivation or teaching as to why the Bae reference would be combined with the Schulz et al. reference. Only through the Examiner's hindsight reconstruction does the Examiner allegedly suggest that the references would be combined with one another. Applicants believe this is an improper application of 35 U.S.C. 103(a) and respectfully request withdrawal of the same.

Accordingly, Applicants believes Claims 73-76 to be patentably distinct over the art cited by the Examiner.

The Examiner has rejected Claims 59-61, 63, 66-68 and 70 under 35 U.S.C. §103(a) alleging them to unpatentable over Schulz et al. in view of Mita.

The Examiner's, in his response on page 3, states "this would also show that cooling the pack, and thus to some extent the power tool, is also desirable. Schulz et al. do not recite the specific details of how the cooling fluid is moved through the battery pack."

Clearly, this is not the case. As pointed out above, Schulz et al. specifically states that at the end of discharge, as the temperature rises, the invention interrupts current output to the accumulator. Thus, the power is terminated to the battery so that it will not overheat. Thus, once the battery is positioned into the charger, it can be recharged fastener. Nowhere does Schulz et al. remotely disclose any type of cooling during use of the battery pack.

The combination with Mita is likewise impermissible hindsight. Mita relates to a vehicle battery pack as previously discussed. Thus, there would no incentive or motivation by one skilled in the art to combine these two references. Accordingly, Applicants believe independent Claims 59 and 66, as well as their dependent claims 61-65 and 67-72 to be patentably distinct over the art cited by the Examiner.

The Examiner has rejected Claims 62 and 69 under 35 U.S.C. §103(a) as being unpatentable over Schulz et al. and Mita further in view of Bae. The combination with Bae, as mentioned above, fails to overcome the shortcomings of the Schulz et al. and

Mita reference. Accordingly, Applicants believe the claims to be patentably distinct over the Examiner's combination.

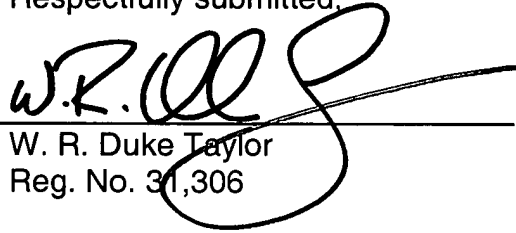
The Examiner has rejected Claims 65, 65, 71 and 72 under 35 U.S.C. §103(a) as being unpatentable over Schulz et al. in view of Mita further in view of Peled et al. (U.S. Patent No. 5,447,807). The combination of Schulz et al. and Mita with Peled et al. fails to remedy the deficiencies of the Schulz et al. and Mita reference. Thus, the combination with Peled et al. fails to disclose or suggest Applicants' invention. Accordingly, Applicants believes Claims 64, 65, 71 and 72 to be patentably distinct over the Examiner's combination.

In light of the above amendments and remarks, Applicants submit that all pending claims are in condition for allowance. Accordingly, Applicants respectfully request the Examiner to pass the case to issue at his earliest possible convenience. Should the Examiner have any questions regarding the present application, he should not hesitate to contact the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: April 10, 2006

By:

  
W. R. Duke Taylor  
Reg. No. 31,306

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

WRDT/lkj